Filed: 10/13/2011

UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

ELECTRONIC PRIVACY INFORMATION CENTER)	
Appellant,)	
V.)	No. 11-5233
NATIONAL SECURITY AGENCY)	
Appellee.))	

STATEMENT OF ISSUES TO BE RAISED AND CERTIFICATE AS TO PARTIES, RULINGS, AND RELATED CASES

Pursuant to the Court's September 14, 2011 Order, F.R.A.P. 26.1, and D.C. Cir. Rules 27(a)(4) and 28(a)(1)(A), EPIC certifies as follows:

I. Statement of Issues to be Raised

a. Whether the NSA is required to conduct a search for responsive agency records and perform a segregability analysis prior to issuing a *Glomar* response to a request for records under the Freedom of Information Act (FOIA) when the request encompasses both exempt and non-exempt records.

II. Certificate as to Parties, Rulings, and Related Cases

a. Parties and Amici:

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Appellant is the Electronic Privacy Information Center (EPIC). EPIC is a 501(c)(3) non-profit corporation. EPIC has no parent, subsidiary, nor affiliate. EPIC has never issued shares or debt securities to the public. EPIC is a public interest research center in Washington, D.C., which was established in 1994 to focus public attention on emerging civil liberties issues and to protect privacy, the First Amendment, and other Constitutional values. and

Appellee is the National Security Agency (NSA). The NSA is a federal agency subject to the FOIA.

b. Rulings Under Review:

Appellant seeks review of the Order of Judge Richard J. Leon of the United States District Court for the District of Columbia as set forth below:

- 1. Grant of Summary Judgment for the National Security Agency;
- Denial of Summary Judgment for the Electronic Privacy Information Center.

c. Related Cases:

This case was appealed from the United States District Court for the District of Columbia (*EPIC v. NSA*, No. 10-1533), The District Court closed the case on September 14, 2011. There are no related cases pending before this Court or any other Court in the United States.

Respectfully submitted, <u>/s/ John Verdi</u>

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CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of October 2011, I served the foregoing STATEMENT OF ISSUES TO BE RAISED AND CERTIFICATE AS TO PARTIES, RULINGS, AND RELATED CASES, including all exhibits and attachments, by certified mail and electronic case filing upon:

ROBERT EVANS KOPP LD NTC Gvt Atty US DOJ U.S. Department of Justice (DOJ) Civil Division, Appellate Staff 950 Pennsylvania Avenue, NW Washington, DC 20530-0001 Tel. (202) 514-2000 robert.kopp@usdoj.gov

/s/ John Verdi
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